

Date of Hearing: June 23, 2026

Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

SB 938 (Menjivar) – As Amended June 16, 2026

SUMMARY: Makes certain United States Immigration and Customs Enforcement (ICE) officers ineligible for specified peace officer training waivers. Specifically, **this bill:**

- 1) Prohibits any individual hired as a sworn federal law enforcement officer for the purposes of detention operations or removal operations by ICE on or after January 1, 2025, from being eligible to apply for any Regular Basic Course Waiver, including the specialized waiver training, as specified in California Regulations relating to minimum standards for peace officer training, or any successor regulation.
- 2) Makes legislative findings and declarations.

EXISTING LAW:

- 1) Requires every person described as a peace officer to satisfactorily complete an introductory training course established by the Commission on Peace Officer Standards and Training (POST). (Pen. Code, § 832, subd. (a).)
- 2) Requires POST to adopt rules establishing minimum standards relating to the recruitment, training, and fitness of state and local law peace officers. (Pen. Code, §§ 13510, 13510.5.)
- 3) Requires POST to establish a certification program for certain classes of peace officers. (Pen. Code, § 13510.1, subd. (a).)
- 4) Establishes basic, intermediate, advanced, supervisory, management, and executive certificates for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by certain peace officers. (Pen. Code, § 13510.1, subd. (b).)
- 5) Requires certificates to be awarded based on training, education, experience, and other prerequisites, as determined by POST. (Pen. Code, § 13510.1, subd. (c)(1).)
- 6) Authorizes persons determined by POST to be eligible peace officers to apply for the certificates, provided they are employed by an agency that participates in the POST program. (Pen. Code, § 13510.1, subd. (d).)
- 7) States that notwithstanding any other law, POST shall have the authority to suspend, revoke, or cancel any certification, as specified, and this authority extends to any certificate or proof of eligibility issued by POST, as specified. (Pen. Code, § 13510.1, subd. (f).)

- 8) Requires an agency that employs certain classes of peace officers to employ as a peace officer only individuals with current, valid certification, except an agency may employ a person for up to 24 months, pending certification by POST, if the person has received proof of eligibility and has not previously been certified, denied certification, or had their certification revoked. (Pen. Code, § 13510.1, subd. (g)(1).)
- 9) Authorizes POST to issue a basic certificate or proof of eligibility to specified peace officers, who, on January 1, 2022, are eligible for a basic certificate or proof of eligibility but have not applied for a certification. (Pen. Code, § 13510.1, subd. (h)(1).)
- 10) Requires specified peace officers who do not possess, and are not eligible for, a basic certificate to apply to POST for proof of eligibility. (Pen. Code, § 13510.1, subd. (h)(2).)
- 11) Disqualifies specified persons from being employed as a peace officer, including any person convicted of a felony, any person who has been issued a peace officer certification and has had that certification revoked by POST, and specified federal or out-of-state law enforcement officers who have committed serious misconduct. (Gov. Code, § 1029, subd. (a)(1)-(11).)
- 12) Permits individuals with qualifying federal or out-of-state law enforcement experience to receive waivers from certain peace officer training requirements, as follows:
 - a) Establishes the Basic Course Waiver (BCW) which provides an exemption from the Regular Basic Course or Specialized Investigator Basic Course training requirements. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)
 - b) Permits a BCW to be granted to individuals with qualifying out-of-state or federal law enforcement experience, whose law enforcement training, experience, and education are deemed by POST to demonstrate sufficient law enforcement knowledge, skill, and proficiency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)
 - c) Makes acceptance of the basic course waiver instead of successful completion of the regular basic course or specialized investigator basic course at the discretion of the employing agency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)
 - d) States that the basic course waiver does not determine an individual's employability nor is it a means of requalifying training, and that individuals with prior California law enforcement experience are not eligible for the basic course waiver and must complete requalification, as specified. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)
 - e) Requires, to be eligible for a basic course waiver, an individual to meet the following training, education, and experience requirements:
 - i) Successful completion of a 400-hour minimum basic general law enforcement training course certified or approved by POST or a similar standards agency of another state, or a federal agency general law enforcement basic course.
 - ii) At least 664 hours of general law enforcement training, as specified.
 - iii) Legislatively mandated training included in the POST-certified regular basic course.

- iv) At least two years of continuous full-time out-of-state experience performing general law enforcement duties with one agency, and requires the experience to have been acquired after the completion of basic training. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(a).)
- f) Establishes specified training, education, and experience requirements to be eligible for the specialized investigator's basic course waiver. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(b).)
- g) Establishes a four-step process for determining a basic course waiver: 1) application/self assessment, documentation, and fee requirements; 2) POST training evaluation; 3) basic course waiver assessment; and 4) waiver issuance, as specified. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(2).)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Sponsor:** Author-sponsored.
- 2) **Author's Statement:** According to the author, “It is the duty of the State of California to ensure that our law enforcement officers are held to the highest standards, training, and qualifications. Most law enforcement agencies have built long-lasting trust with the communities in which they serve, and this bill seeks to protect that trust. The federal government has modified and accelerated its training to a 6-week program to meet its aggressive hiring efforts. As a result we have seen various reports documenting patterns of misconduct and harmful enforcement practices associated with Immigration and Customs Enforcement operations across California and nationwide. These individuals appear to have no regard for the rule of law and lack the necessary training to qualify for lateral waivers.”

“SB 938, as amended, ensures that a sworn federal law enforcement officer hired by the United States Immigration and Customs Enforcement on or after January 20, 2025, cannot apply for any required Basic Course Waivers, including the specialized training waiver. This ensures they are held to the same standards as our current local law enforcement and undergo the same rigorous training.”
- 3) **Background: Federal Immigration Enforcement Efforts.** Immigration arrests have significantly increased since President Trump's second term began.¹ ICE removals in California were substantially similar to the numbers from the previous year in the first few months of Trump's second term; however, beginning in the summer of that year, removals significantly ramped up.² Data indicates that ICE deported at least 8,250 people from California in the first nine months of 2025.³ From June 6 to June 22, 2025, federal

¹ Sun, *Immigration Arrests Are Up Sharply in Every State. Here Are the Numbers*, N.Y. Times (June 27, 2025) <<https://www.nytimes.com/interactive/2025/06/27/us/ice-arrests-trump.html>> [as of May 4, 2026].

² Miranda, *ICE deportations in California surged in the thousands as 2025 went on*, Sac. Bee (Jan. 12, 2026) <<https://www.sacbee.com/news/california/article314213552.html>> [as of May 4, 2026].

³ *Ibid.*

immigration enforcement teams arrested 1,618 immigrants for deportation in Los Angeles and the surrounding Southern California regions.⁴ In September and October of 2025, federal immigration officers arrested more than twice as many people in the region of San Diego as they did in the entirety of 2024.⁵ In response to the protests, President Trump deployed National Guard troops and Marines to L.A. over the objections of state officials.⁶

Such aggressive immigration enforcement efforts have resulted in an uptick in immigration-enforcement-related deaths, including the January 24, 2026, shooting of Alex Pretti by U.S. Customs and Border Protection (CBP) officers.⁷ Recent reporting found that it is the deadliest year for those in immigration detention in over two decades.⁸ Since October 23, 2025, more people have died in ICE custody than in the entire prior fiscal year.⁹ The rapid increase in immigration arrests has contributed to overcrowding, unsanitary conditions, and issues related to healthcare and food access in detention centers.¹⁰

The increase in federal immigration enforcement under the Trump Administration has also been associated with aggressive federal recruitment efforts, including efforts to recruit California peace officers to join federal immigration agencies.¹¹ ICE has taken steps to significantly expand hiring, including offering \$50,000 signing bonuses, student loan forgiveness, lowering the age limit for recruits from 21 to 18, and waiving the 37-year-old hiring cap, among others.¹² This has raised concerns that California peace officers may leave their roles to pursue employment in federal immigration enforcement, and alternatively, that there is little preventing federal immigration officers from applying to become California peace officers.

- 4) **Peace Officer Qualifications:** To become a peace officer, a person must meet certain minimum standards: 1) they are legally authorized to work in the U.S. under federal law; 2) are at least 18 years of age; 3) are fingerprinted for purposes of searching local, state, and national fingerprint files to disclose a criminal record; 4) are of good moral character, as determined by a thorough background investigation; 5) are a high school graduate or other specified educational achievements; and 6) are free from any physical, emotional, or mental condition, including bias against race, ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of peace officer powers. (Gov. Code, § 1031, subds. (a)-(f).)

⁴ Castillo, *More than 1600 immigrants detained in Southern California this month, DHS says*, L.A. Times (June 25, 2025) <<https://www.latimes.com/politics/story/2025-06-25/more-than-1-600-immigrants-detained-in-southern-california-this-month-dhs-says>> [as of May 4, 2026].

⁵ Fry et al., *Immigration Arrests surge by 1,500% in San Diego: 'I feel the temperature rising'*, CalMatters (Jan. 29, 2026) <<https://calmatters.org/justice/2026/01/san-diego-immigration-arrest-surge/>> [as of May 4, 2026].

⁶ Hutchinson, *LA protests timeline: How ICE raids sparked demonstrations and Trump to send in the military*, ABC News (June 11, 2025) <<https://abcnews.go.com/US/timeline-ice-raids-sparked-la-protests-prompted-trump/story?id=122688437>> [as of May 4, 2026].

⁷ McSwane, *Two CBP Agents Identified in Alex Pretti Shooting*, ProPublica (Feb. 1, 2026)

<<https://www.propublica.org/article/alex-pretti-shooting-cbp-agents-identified-jesus-ochoa-raymundo-gutierrez>> [as of May 4, 2026].

⁸ Bustillo et al., *Immigration detention on track for deadliest fiscal year since 2004*, NPR (March 10, 2026)

<<https://www.npr.org/2026/03/10/g-s1-111238/immigration-detention-deaths-custody>> [as of May 4, 2026].

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Sharp, et al., *ICE offers big bucks – but California police officers prove tough to poach*, Los Angeles Times (Sept. 22, 2025) <<https://www.latimes.com/california/story/2025-09-22/ice-poaching-cops>> [as of June 16, 2026].

¹² Ray and Sanchez, *ICE expansion has outpaced accountability. What are the remedies?* Brookings (Jan. 26, 2026)

<<https://www.brookings.edu/articles/ice-expansion-has-outpaced-accountability-what-are-the-remedies/>> [as of June 16, 2026].

For purposes of conducting thorough background investigations for peace officer applicants, employers are required to disclose employment information about an employee, upon request of an LEA, subject to certain conditions. (Gov. Code, § 1031.1, subd. (a).) Disclosable employment information includes performance evaluations, disciplinary actions, eligibility for rehire, and other information relevant to the performance of a peace officer, except as specified. (Gov. Code, § 1031.1, subd. (c).) For example, if a former ICE officer applied to become a peace officer, and a background investigation, including a review of prior employment information such as disciplinary records, demonstrated a propensity for racial bias, that officer may fail to meet California's minimum standards to become a peace officer.

In addition to these minimum standards, certain factors, such as a felony conviction and certain misconduct, disqualify a person from becoming a peace officer. Among other disqualification grounds, any of the following disqualifies a person from being employed as a peace officer: 1) a felony conviction; 2) a conviction of, or adjudication through an administrative, military, or civil judicial process requiring at least clean and convincing evidence that a person committed specified forgery, tampering, witness intimidation, and other offenses against public justice, as specified; 3) POST revocation of peace officer certification, as specified; and 4) revocation of certification and being listed in the National Decertification Index for any person previously employed in law enforcement in any state or by the federal government or committing serious misconduct that would have resulted in revocation of certification by POST if employed as a peace officer in this state. (Gov. Code, § 1029, subd. (a)(1)-(11).) Notably, this last basis for disqualification, which is specific to federal and out-of-state officers, allows for disqualification of a federal or out-of-state law enforcement officer because of misconduct committed in their prior law enforcement role.

In sum, peace officer applicants must be vetted for moral character, and there is a statutory avenue to disqualify persons who committed serious misconduct while previously employed in law enforcement in any state or by the federal government. However, effectively vetting moral character and disqualifying officers based on prior misconduct may be difficult if the previous law enforcement employer does not make efforts to hold their officers accountable for misconduct or maintain records of such misconduct.

- 5) **Peace Officer Training and Waivers:** Peace officers are required to satisfactorily complete an introductory training course established by POST. (Pen. Code, § 832.) The POST-certified Regular Basic Course is the training standard that governs police officers, deputy sheriffs, and school district police officers, among others.¹³ It includes a minimum of 680 hours of POST-training, broken down into 43 Learning Domains.¹⁴ This includes a variety of written, skill, exercise, and scenario-based training and testing.¹⁵ POST additionally offers a specialized investigator's basic course, an entry-level training requirement for certain California investigators, which requires a minimum of 591 hours of training, and includes investigator-specific training such as investigative case management and surveillance.¹⁶

¹³ POST, Peace Officer Basic Training <<https://post.ca.gov/peace-officer-basic-training>> [as of June 15, 2026].

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ POST, Specialized Investigator's Basic Course <<https://post.ca.gov/specialized-investigators-basic-course>> [as of June 15, 2026].

Under California law, training waivers may be granted to individuals with qualifying out-of-state or federal law enforcement experience, whose law enforcement training, experience, and education are deemed by POST to demonstrate sufficient law enforcement knowledge, skill, and proficiency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).) The rules governing such waivers are largely established by POST Regulations, rather than statute. There are two types of basic course waivers: the regular basic course waiver and the specialized investigators' basic course waiver.¹⁷ Waiver applicants must complete an application process to receive such a waiver. (*Ibid.*) Employing law enforcement agencies have discretion over whether to accept a waiver. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)

Securing a basic course waiver requires a showing of certain training and experience. Eligibility for the basic course waiver requires that the applicant satisfy the following: 1) completion of a 400-hour minimum basic general law enforcement training course approved by POST or a similar standards agency of another state, or a federal agency general law enforcement basic course; 2) have at least 664 hours of general law enforcement training; 3) complete the legislatively mandated training included in the POST-certified regular basic course; and 4) have at least two years of continuous full-time out-of-state experience performing general law enforcement duties with one agency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1)(a).) Further, there cannot be more than a six-year break from the applicant's last peace officer employment before the application for the waiver, and the applicant must attest that they are leaving their previous law enforcement employer in good standing. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(2).) The applicant must also review grounds for disqualification under California law and verify that they are unaware of any reason why they would be denied future certification as a peace officer. (*Ibid.*)

Once an applicant has applied, POST conducts a training evaluation, and once the above components are completed, the waiver applicant is then required to attend a 161-hour Requalification course¹⁸ in person, unless they meet specified test-only criteria. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(2).) Once the waiver is issued, it is valid for three years.¹⁹

- 6) **Effect of this bill:** SB 938 seeks to ensure that certain federal immigration officers who subsequently seek employment as a California peace officer must complete the entirety of California peace officer training requirements by making those federal officers ineligible for a waiver from California's basic course of training or specialized investigator training. Specifically, the bill prohibits any individual hired as a sworn federal law enforcement officer for detention operations or removal operations by ICE from being eligible to apply for any Regular Basic Course Waiver, including the specialized waiver training. This prohibition would apply to individuals hired on or after January 1, 2025, encompassing individuals hired by ICE two years before the effective date of this bill.

The scope of this bill is relatively narrow. It only applies to ICE officers hired after January 1, 2025, and particularly, only ICE law enforcement officers hired to engage in detention or removal operations. While this may limit the number of impacted individuals, it is worth noting there are other component agencies within the Department of Homeland Security

¹⁷ POST, Basic Course Waiver <<https://post.ca.gov/basic-course-waiver-process>> [as of June 15, 2026].

¹⁸ *Ibid.*

¹⁹ *Ibid.*

(DHS), such as CBP, that engage in immigration enforcement. For example, it was CBP officers who killed Alex Pretti on January 24, 2026.²⁰

ICE officer training and experience may already be insufficient, in and of itself, to establish eligibility to secure a basic course waiver. As previously noted, to be eligible for a POST basic course waiver, a person must, among other things, have completed “a 400-hour minimum basic general law enforcement training course” and have “[a]t least two years of continuous full-time out-of-state experience performing ‘general law enforcement duties’ with one agency.” (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(a).) General law enforcement duties are defined to mean duties which include investigation of crime, patrol of a geographic area, responding to the full range of requests for police services, and performing any enforcement action on the full range of law violations. (Cal. Code Regs., tit. 11, § 1001, subd. (25).) Similarly, to be eligible for a waiver from the specialized investigator’s basic course waiver, an individual must have at least two years of continuous full-time out-of-state or federal investigative experience, or performance of general law enforcement duties, with one out-of-state or federal agency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(b).)

California regulations do not explicitly address the sufficiency of ICE officer training and experience for waiver eligibility. However, POST’s published Regular Basic Course of Training Application informally excludes “Military Basic, Military Police, and specialized training (e.g. *U.S. Customs, Border Patrol*, INS, FBI, DEA)” from counting towards the minimum 400 hours of general law enforcement basic training required for a basic course waiver.²¹ While this does not specifically mention ICE, it suggests that specialized immigration enforcement training may be insufficient to satisfy the minimum basic training hours needed to be eligible for a basic course waiver.

It is less clear if federal immigration law enforcement experience qualifies as “general law enforcement duties” experience to secure a basic course waiver. One of the requirements of “general law enforcement duties” experience is that the officer respond to “the full range of requests for police services” and perform enforcement actions on “the full range of law violations.” (Cal. Code Regs., tit. 11, § 1001, subd. (25).) ICE officers’ duties are specific to immigration enforcement, which could indicate that such specialized experience may not rise to the level of general response to police service requests, for purposes of meeting the minimum experience requirements to be eligible for a POST basic course waiver. On the other hand, California statutes and POST regulations do not expressly exclude federal immigration enforcement experience from the definition of “general law enforcement duties.” According to POST online materials, “general law enforcement experience” excludes deputies with corrections experience only, federal police officers, as specified, and military police.²² In practice, an ICE officer’s eligibility for a basic course waiver may depend on the particular training and experience of the individual officer. This bill remedies some of this uncertainty by making it explicit that recently hired ICE officers who engage in

²⁰ McSwane, *Two CBP Agents Identified in Alex Pretti Shooting*, ProPublica (Feb. 1, 2026) <<https://www.propublica.org/article/alex-pretti-shooting-cbp-agents-identified-jesus-ochoa-raymundo-gutierrez>> [as of June 17, 2026].

²¹ POST, Regular Basic Course Waiver Application (March 2026) <https://post.ca.gov/portals/0/post_docs/resources/RBCW_Overview_Instructions.pdf> [as of June 16, 2026] (emphasis added).

²² Basic Course Waiver, *supra*.

detention or removal options cannot apply for a POST basic course waiver or specialized investigator waiver.

The author may wish to consider whether this waiver prohibition should be based upon an individual being hired by ICE during the applicable time period, or whether it should exclude certain specialized federal immigration enforcement training and experience from the type of training and experience that can count towards waiver eligibility. Currently, the bill applies to individuals hired by ICE during the applicable time frame, irrespective of whether they have other non-ICE-related law enforcement experience which could otherwise count towards waiver eligibility requirements. This appears to establish an employer-dependent waiver eligibility restriction, rather than excluding certain types of training and experience from counting towards eligibility to receive a basic course waiver. As noted below, this could undermine a legal defense of this bill.

- 7) **Constitutional Concerns:** This bill prohibits certain persons hired by a specific federal agency from applying for a waiver from specified peace officer training requirements; therefore, it may be subject to a legal challenge under the Supremacy Clause.

State laws that conflict with federal laws or attempt to regulate the federal government may be invalidated for several reasons. The Supremacy Clause of the U.S. Constitution provides that federal law “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” (U.S. Const., art. VI, cl. 2.)

The doctrine of intergovernmental immunity is derived from the Supremacy Clause of the Constitution. Intergovernmental immunity demands that “the activities of the Federal Government are free from regulation by any state.” (*United States v. California* (9th Cir. 2019) 921 F.3d 865, 878 (citations omitted).) This makes a state regulation invalid if it “regulates the United States directly or discriminates against the Federal Government or those with whom it deals.” (*N.D. v. United States* (1990) 495 U.S. 423, 435); *Boeing Co. v. Movassaghi* (9th Cir. 2014) 768 F.3d 832, 839.) This prohibition against directly regulating the federal government prohibits states from “interfering with or controlling the operations of the Federal Government.” (*United States v. Washington* (2022) 596 U.S. 832, 838.) A recent Ninth Circuit injunction order against SB 805 (Pérez), Chapter 126, Statutes of 2025 outlined an even more stringent standard for direct regulation, stating that intergovernmental immunity “forbids States from regulating the federal government *qua* government and from controlling federal governmental functions in any manner and to any degree.” (*United States v. California* (9th Cir. 2026) 173 F.4th 1060, 1068.) In contrast, “[a] state or local law discriminates against the federal government if it treats someone else better than it treats the government.” (*Boeing, supra*, 768 F.3d at p. 842, quoting *United States v. City of Arcata* (9th Cir. 2010) 629 F.3d 986, 991.) Notably, “any discriminatory burden on the federal government” is prohibited. (*United States v. California, supra*, 921 F.3d at p. 880) (emphasis in original). However, generally applicable state laws can apply to federal entities. (See *Johnson v. Maryland*, 254 U.S. 51, 56 (1920); *N.D, supra*, 495 U.S. at pp. 435-438; *United States v. Washington, supra*, 596 U.S. at p. 839.)

A related doctrine is conflict preemption, whereby state laws that conflict with federal law are preempted. (*United States v. California, supra*, F.3d at pp. 878-879.) “This includes cases where compliance with both federal and state regulations is a physical impossibility, and

those instances where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” (*Arizona v. United States*, 567 U.S. 387, 399 (2012).) For example, in *United States v. California*, the Ninth Circuit Court of Appeals upheld the provisions of the California Values Act relating to law enforcement cooperation with ICE. The court of appeals had “no doubt that SB 54 makes the jobs of federal immigration authorities more difficult.” (*Id.* at p. 886.) But the court concluded that “this frustration does not constitute obstacle preemption,” because federal law “does not require any particular action on the part of California or its political subdivisions.” (*Id.* at p. 889.) “Even if SB 54 obstructs federal immigration enforcement,” the court stated, “the United States’ position that such obstruction is unlawful runs directly afoul of the Tenth Amendment and the anticommandeering rule.” (*Id.* at p. 888.) “California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts.” (*Id.* at p. 891.) The court concluded that SB 54 does not violate the United States’ intergovernmental immunity for similar reasons. (*Ibid.*)

This bill makes a person hired by ICE as a law enforcement officer after January 1, 2025, ineligible for a regular basic course waiver or a specialized investigator waiver, which could lead to a lawsuit alleging that it discriminates against the federal government in violation of intergovernmental immunity. The targeted approach of this bill, and its conditioning of waiver-ineligibility based upon recent employment with a single federal agency, regardless of the individual's actual training or experience, could support an argument that this is intended to target the federal government. Retroactively applying the waiver restriction to ICE officers hired shortly before the commencement of the term of a particular U.S. President may additionally undermine the argument that this law is non-discriminatory and generally applicable. While this bill only pertains to California peace officer waiver eligibility, under intergovernmental immunity, “any discriminatory burden on the federal government” is prohibited. (*United States v. California*, *supra*, 921 F.3d at p. 880) (emphasis in original). A claim that this limited restriction on the future employment prospects of ICE law enforcement officers rises to the level of directly regulating the federal government is possible, albeit less likely, given that this bill does not impact the duties of current ICE officers and pertains to the degree of training required to become a California peace officer.

- 8) **Argument in Support:** According to the *Mexican American Legal and Educational Fund (MALDEF)*, “The bill preserves the integrity of California’s peace officer training standards by ensuring that recent federal immigration enforcement service does not establish eligibility for a Regular Basic Course Waiver.

“The Regular Basic Course and the limited waiver process for that requirement serve that purpose. A Basic Course Waiver is not automatic reciprocity for prior out-of-state or federal service. It is a limited mechanism for determining whether an applicant’s prior training, education, and experience are sufficiently equivalent to California’s requirements for peace officer service. SB 938 appropriately recognizes that, for individuals hired by ICE on or after January 1, 2025, federal immigration enforcement service should not establish eligibility for a Basic Course Waiver, because it is not necessarily equivalent to service as a California peace officer performing general law enforcement duties.

“Federal immigration enforcement officers operate under different legal authorities, policies, command structures, operational objectives, and accountability systems than California peace officers. Their work is primarily directed toward federal immigration enforcement, detention,

and removal operations. That work does not necessarily provide the same training or experience in, among other things, local patrol responsibilities, constitutional policing, community interaction, and de-escalation principles, and state-law arrest and use-of-force standards.

“California is not required to treat recent ICE detention or removal experience as equivalent to California peace officer training. Nor should California assume that such experience prepares an individual to exercise California peace officer authority without completing the state’s basic training requirements. SB 938 does not regulate federal hiring, deployment, discipline, or operations. It regulates only the qualifications required before an individual may serve as a California peace officer.

“This distinction is important. The bill does not prevent the federal government from employing or training immigration enforcement officers. It does not interfere with federal immigration enforcement operations. It simply ensures that California maintains control over the minimum qualifications for California peace officers and does not treat federal immigration enforcement service as a substitute for California’s own peace officer training standards.”

9) **Argument in Opposition:** No longer applicable.

10) Related Legislation:

- a) AB 1896 (M. González) would disqualify any person employed by an entity that engaged in immigration enforcement from January 2025 to January 2029 from being employed as a peace officer. AB 1896 is pending a hearing in the Senate Public Safety Committee.
- b) AB 1627 (Ávila Farías) would define “law enforcement officer,” for purposes of a provision of law that disqualifies a person from becoming a peace officer if they were employed in law enforcement by any state or the federal government and committed certain misconduct, to include a law enforcement officer employed in any state or by the federal government who engages in immigration enforcement, as defined. AB 1627 is pending a hearing in the Senate Public Safety Committee.
- c) SB 1332 (L. Gonzalez) would have made a person ineligible for employment in any civil service or exempt position with the state if the person has been employed by ICE during the period beginning January 20, 2025, and ending January 20, 2029, among other changes. The hearing on SB 1332 in the Senate Labor, Public Employment and Retirement Committee was canceled at the request of the author.

11) Prior Legislation:

- a) AB 17 (Cooper), of the 2021-2022 Legislative Session, would have disqualified a person from being a peace officer if the person has been discharged from the military for committing an offense that would have been a felony if committed in California or if the person has been certified as a peace officer and has had that certification revoked by POST. AB 17 did not receive a hearing in this Committee.

- b) AB 60 (Salas), of the 2021-2022 Legislative Session, would have required a peace officer's certificate to be suspended, revoked, or canceled when the person is ineligible to be a peace officer or when the person has been subject to a sustained termination for serious misconduct, as defined, on or after January 1, 2022. AB 60 did not receive a hearing in this Committee.
- c) SB 449 (Bradford), Chapter 397, Statutes of 2023, imposed limitations on the release of specified information in peace officer decertification proceedings and made other clarifying changes to the peace officer certification process established by SB 2 (Bradford), Chapter 409, Statutes of 2021.
- d) SB 2 (Bradford), Chapter 409, Statutes of 2021, granted new powers to POST to investigate and determine peace officer fitness and to decertify officers who engage in "serious misconduct" and made changes to the Bane Civil Rights Act to limit immunity as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

California Public Defenders Association
Central American Resource Center of California (CARECEN-LA)
Mexican-American Legal Defense and Ed Fund [maldef]

Oppose

California Association of Highway Patrolmen
California State Sheriffs' Association
Peace Officers Research Association of California (PORAC)

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